

ST 16-0055-GIL 11/01/2016 CIGARETTE TAX ACT

This letter discusses distributor licenses. 35 ILCS 130/1; 86 Ill. Adm. Code 440.50. (This is a GIL.)

November 1, 2016

RE: COMPANY. – Request for IL. Stamping License

Dear Xxxxx:

This letter is in response to your letter dated September 7, 2016, in which you requested information. The Department issues two types of letter rulings. Private Letter Rulings (“PLRs”) are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department’s regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter (“GIL”) is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Per PERSON’s instruction, I am requesting information regarding your ruling on our request for a Cigarette Distributor License. We are wanting to sell to RETAILER, who is requiring we stamp the cigarettes. Please provide us with a PLR (Private Letter Ruling) on this matter.

I attach the documentation I initially sent to PERSON, for review. Thank you.

**DEPARTMENT’S RESPONSE:**

The Cigarette Tax Act provides for the licensing of three types of distributors.

1. A person engaged in the business of selling cigarettes in this State who brings or causes to be brought into this State from without this State any original packages of cigarettes, on which original packages there is no authorized evidence underneath a sealed transparent wrapper showing that the tax liability imposed by this Act has been

paid or assumed by the out-of-State seller of such cigarettes, for sale or other disposition in the course of such business.

2. A person who makes, manufactures or fabricates cigarettes in this State for sale in this State, except a person who makes, manufactures or fabricates cigarettes as a part of a correctional industries program for sale to residents incarcerated in penal institutions or resident patients of a State-operated mental health facility.
3. Any person who makes, manufactures or fabricates cigarettes outside this State, which cigarettes are placed in original packages contained in sealed transparent wrappers, for delivery or shipment into this State, and who elects to qualify and is accepted by the Department as a distributor under Section 4b of this Act.

35 ILCS 130/1. See Section 4 and 4b of the Act for the requirements for applying for a license. Except when the applicant is a manufacturer or when the applicant is a person licensed as a distributor under the Tobacco Products Tax Act of 1995 applying for a distributor license under the Cigarette Tax Act to qualify as a stamping distributor, no distributor license will be issued to an applicant unless the applicant presents the Department with satisfactory proof in writing that he or she will be able to buy cigarettes directly from at least 3 major cigarette manufacturers. 86 Ill. Adm. Code 440.50.

Persons obtaining licenses under the second and third paragraph may not sell stamped packages of cigarettes directly to retailers and secondary distributors. Retailers and secondary distributors may only purchase or obtain stamped original packages of cigarettes from distributors obtaining a license under the first paragraph. 35 ILCS 130/4d & 4e.

It is unclear if the Company is a manufacturer. If the Company is a manufacturer, it cannot obtain a distributor license for the purpose of selling original packages of cigarettes directly to retailers and secondary distributors. If the Company is not a manufacturer, the Company may apply for a distributor license under paragraph (1) listed above if it has a location in Illinois from which it will transact business, it obtains the documentation listed above that is required by 86 Ill. Adm. Code 440.50, and it purchases stamps and affixes those stamps to original packages of cigarettes for sale in this State.

Application for a distributor license can be made online by going on the Department's website at [www.tax.illinois.gov](http://www.tax.illinois.gov) and clicking on MyTax Illinois.

I hope this information is helpful. If you require additional information, please visit our website or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Richard S. Wolters  
Associate Counsel